

Docket No: 04983.0207.00US00/38-10(15498)A
Application Serial No. 09/404,520

REMARKS

The above amendment to the claims serves to simplify issues for consideration on appeal.

Allowable claims 57 and 58 are rewritten in independent form incorporating the characterization of the antecedent claim 29 in the chain of dependency.

The specification is objected to for use of active internet links and description of primer sequence without a SEQ ID NO. To reduce the burden on the Examiner applicants propose to deal with the objections to the specification by submitting a substitute specification complying with the objection on indication of allowance of claims of acceptable scope.

Outstanding restriction requirement and allowable claims:

The PTO indicated that claims 57 and 58 are allowable because "No references were found teaching or suggesting SEQ ID NO: 16207."

Applicants continue to traverse the requirement to elect a single sequence from the group of sequences defining the invention. The invention of claims 57 and 58 is not directed to nucleic acid molecules (which may or may not be independent and distinct) but to a computer based system which is useful in a method for identifying homologous nucleotide sequences (claim 57) and to such methods (claim 58). The computer based system comprises input means for receiving a target sequence, means for identifying fragments of sequence recorded in a computer readable medium which are homologous to a target sequence, and an output means for outputting identified homologous sequences. The computer readable medium has a record of at least 100 nucleotide sequences selected from among SEQ ID NO. 16207 through 27905.

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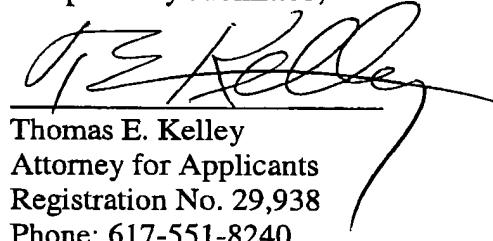
In the previous communication applicants traversed the requirement to select a single sequence stating in pertinent part:

"Applicants continue to traverse the requirement to elect a single nucleic acid sequence. Independent claim 29 is directed to "computer readable medium having recorded thereon *at least 100* of the nucleotide sequences depicted in SEQ ID NO: 16207 through SEQ ID NO: 27905 or complements thereof." A restriction to a single nucleotide sequence prevents the claimed invention of *at least 100* sequences from ever being examined.

Although applicants believe that the claimed invention should be examined without a sequence restriction, applicants provisionally elect a 100 nucleotide sequence set (SEQ ID NO: 16207 through 16306) and a single sequence (SEQ ID NO: 16207).

Applicants continue to traverse the requirement to restrict the invention to one characterized by a single nucleotide sequence. More specifically, applicants continue to traverse any requirement to limit the scope of the computer system of claims 57 and 58 to one having a computer readable medium characterized as being a record of a single nucleotide sequence. If applicants were to acquiesce in such a restriction requirement, applicants would be effectively forced to file an unreasonable number of applications to achieve commercially useful claim scope. Applicants respectfully submit that the requirement to elect a single nucleotide sequence effectively denies them of exclusive right to their discoveries. Reconsideration and withdrawal of the requirement to elect a single sequence is respectfully requested.

Respectfully submitted,


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Marked-Up Version of Amended Claims

57. (Amended) A computer based system comprising computer readable medium [of claim 29] having recorded thereon at least 100 nucleotide sequences including sequences selected from the group consisting of SEQ ID NO: 16207 though SEQ ID NO: 27905 and complements thereof, input means for receiving a target sequence, means for identifying fragments of sequence recorded in said computer readable medium which are homologous to a target sequence, and an output means for outputting identified homologous sequences.
58. (Amended) A method of identifying nucleotide sequence comprising comparing target sequence to a sequence stored in computer readable medium [of claim 29] having recorded thereon at least 100 nucleotide sequences including sequences selected from the group consisting of SEQ ID NO: 16207 through SEQ ID NO: 27905 and complements thereof.

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